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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,557	11/27/2001	Sanjeev Sharma	CM2478M	8739

27752 7590 06/13/2006

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EXAMINER

KORNAKOV, MICHAIL

ART UNIT PAPER NUMBER

1746

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/994,557

Applicant(s)

SHARMA ET AL.

Examiner

Michael Komakov

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-13,15-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,7 and 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,8-10,15-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1,4-13,15-20 and 22-24 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. Claims 1, 19, 20, 22, 23 have been amended to include the limitation of a tablet as an automatic dishwasher product. Claims 2, 3, 14, 21 are cancelled. Claims 4, 5, 7, 11, 12, 13 are currently withdrawn from consideration as being directed to non-elected inventions. Claims 1, 6, 8-10, 15-20, 22-24 are examined on the merits.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 6, 8-10, 15-20, 22-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al (U.S. 4,115,292) in view of Anderson et al (U.S. 4,776,455).

With regard to claims 1, 19, 20, 22 Richardson discloses a method for using detergent articles in automatic dishwasher comprising contacting the subjects to be washed with a detergent (Example IX, col.23) that consists of two pads, wherein an enzyme (detergent auxiliary of the instant claim 1) is enclosed in an inner water soluble film carrier (reads on one compartment of multi-compartment pouch of claim 1), and a detergent (automatic dishwashing product of the instant claim 2) is enclosed in an outer water soluble film pocket (reads on another separate compartment of multi-compartment pouch of the instant claim 1) (abstract, see especially Example XVI in col.23, i4). In Example XV1 Inner and outer pockets are made from the same water soluble material. Thus, the structure provides for a pouch comprising water soluble material, having two compartments (inner and outer pockets made of the same water

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soluble material), and having a barrier, which is defined by the boundaries of the inner packet. Thus, the limitations of the pouch structure are met by Richardson.

The outer and inner packets can be made according to Richardson from different water soluble materials, which inherently provides for their different rates of solubility under given temperature conditions, and thus meets the limitations of claim 15. A detergent composition is solid particulate, in granular, viscous liquid, paste or gel form (col.10, lines 32-36). With regard to claims 8, 9, 10 Richardson teaches that the inner compartment in addition to the detergent auxiliary contains 10- 30% of plasticizer, which is selected from glycols (the auxiliary elected by applicants), glycerol, sorbitol, triethanolamine and mixtures thereof (col.7, lines 44-68, col.8, lines 1-14, claims 21 , 22 in col.29). With regard to claim 16, Richardson teaches that the detergent composition contains ionic, nonionic or other types of surfactants (col.10, lines 37-45).

The difference between the instant claim 1 and claims 20 and 22 is the anhydrous liquid vs. liquid, wherein the liquid of claims 20 and 22 is allowed to be either anhydrous or not. Therefore, the rationale applied for the rejection of claims 1 and 19 is fully attributed to the rejection of claims 20 and 22. The limitations of claim 21 are discussed in col.10, lines 32-36 of Richardson.

With regard to the process steps (2), as per instant claims 1, 19 and 20, and step (3) of claim 22 Richardson teaches that the detergent article (made as discussed above) is placed in the detergent dispenser cup of an automatic dishwasher, and dishes and tableware are washed with it. The dishes and tableware are clean after the completion of the dishwasher cycle, and there is no residue of the paste or the packet

remaining in the dispenser cup or on the inside of the dishwasher (see col. 23, lines 5-11). Thus, the steps of the instantly claimed process are performed by Richardson.

The teaching of Richardson does not specify the position of two compartments as being adjacent or above one another. Anderson discloses multi-compartment sachet product for delivering treatment agents to the washing machine or dishwasher comprising a first compartment capable of releasing its contents (solid or liquid) within 3 minutes from the start of the wash process, and a second compartment of water-permeable material provided with a pore-occluding coating and/or in the form of a sachet. Anderson equally discloses at least two types of multi-compartment pouch, one wherein sachet contains a first compartment, and an adjacent second compartment separated from the first by non-opening seal (reads on barrier) (see col.4, lines 13-19). Alternatively or additionally, the sachet can be enclosed within another sachet compartment of porous water-permeable material. This other sachet compartment may simply be the first Compartment; the Second Compartment (inner Sachet) is then located together with the first treatment agent, in the first compartment (outer sachet) (col.4, lines 20-30).

Thus, Anderson equally discloses as equivalents a structure, as disclosed by Applicants in one embodiments in the specification, and a structure as disclosed in Richardson. In the instant case substitution of equivalents requires no express motivation, as long as the prior art recognizes equivalency, In re Fount 213 USPQ 532 (CCPA 1982); In re SiebentriR 152 USPQ 618 (CCPA 1967); Graver Tank & Mfn. Co. Inc. 7. Linde Air Dproducts Co. 85 USPQ 328 (USSC 1950). Therefore, those skilled in

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the art would have found obvious to use either one of constructions of Anderson (one is equivalent to Richardson and one is the same as claimed) for the pouch, motivated by their recognized equivalency in the prior art, and will thus arrive at the claimed subject matter.

The teaching of Richradson is also silent about the specific embodiment where the dishwashing component is a tablet. However, Richardsson expresses clear motivation to utilize such as a conventional way of preparing and applying such products, on lines 31-36 of col.10 by stating that the dishwashing compositions can be in solid form. Therefore, one skilled in the art would have found obvious to utilize dishwashing composition of Richardson in any solid form, including a conventionally used tablets, with the reasonable expectation of success.

With regard to claims 23 and 24 the location of compartments such that one is above the other, is mere a design choice and would be obvious to those skilled in the art.

#### Response to Arguments

4. Applicants' arguments filed 03/31/2006 have been fully considered but they are not persuasive. Applicants' argument resides in contention that on page 4 lines 1-5 it is disclosed that, when a unit dose pouch is made and sealed using powder detergents, the working environment can be dusty. And the dust can negatively affect the pouch seal. Applicants further cite the case law cited at MPEP 2141.02, (A), stating that patentable invention may lie in the discovery of the source of a problem even

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though the remedy may be obvious once the source of the problem is identified. This is part of the subject matter as a whole, which represents the test under 35 USC 103.

Applicants further submit that references of record teach in considerable detail the formation of pouches, sachets, etc by sealing various films.

In response to this Applicants' attention is drawn to col.10, lines 31-35, as discussed above, wherein Richardson clearly provides a generic teaching of different forms, that are definitely free of dust. The issue here is whether the difference alleged by Applicant are practically and statistically significant as well as **unexpected**.

Applicants' specification does not address this issue, In re Merck & Co., Inc., 231 USPQ 375 (Fed. Cir 1986); In re Longi, 225 USPQ 645 (Fed. Cir. 1985); In re Freeman, 177 USPQ 139 (CCPA 1973).

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mikhail Kornakov whose telephone number is (571) 272-1303. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1205. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mikhail Kornakov  
Primary Examiner  
Art Unit 1746

06/11/06